United Nations

A/HRC/30/60

General Assembly

Distr.: General
24 August 2015

Original: English

Human Rights Council
Thirtieth session
Agenda item 10
Technical assistance and capacity-building

Report of the Independent Expert on the situation of human rights in the Sudan, Aristide Nononsi*

Summary

The present report is submitted pursuant to Human Rights Council resolution 27/29, in which the Council extended the mandate of the Independent Expert on the situation of human rights in the Sudan and requested him to submit a report to the Council for consideration at its thirtieth session. In the report, the Independent Expert provides an overview of the situation of human rights situation in the Sudan, and outlines recent developments and some of the human rights challenges in the country following his first visit to the Sudan. He also describes the technical assistance and capacity-building needs of the Government, national human rights institutions and civil society organizations, and makes recommendations addressed to the Government, the international community, civil society organizations and the armed movements in the Sudan.

* Late submission

GE.15-14268(E)

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I. Introduction

1. In its resolution 27/29, the Human Rights Council extended the mandate of the Independent Expert on the situation of human rights in the Sudan for a period of one year, and requested him to continue his engagement with the Government of the Sudan to assess, verify and report on the situation of human rights with a view to making recommendations on technical assistance and capacity-building for addressing human rights in the country; and to report to the Council at its thirtieth session.

2. The present report covers the period from 1 December 2014 to 30 June 2015. In compliance with the Code of Conduct of Special Procedures Mandate Holders of the Human Rights Council, a draft report was shared with the Government of the Sudan in order to provide it with an opportunity to comment on the observations and findings of the Independent Expert.

3. The present report is based on information made available to the Independent Expert during his visit to the Sudan, as well as on information provided by the Government of the Sudan, the African Union-United Nations Hybrid Operation in Darfur (UNAMID) and other sources, including civil society organizations, United Nations agencies, funds and programmes with operational competence in the Sudan, as well as the donor community.

4. The Independent Expert expresses his gratitude to the Government of the Sudan for its invitation and cooperation, to the Office of the United Nations Resident and Humanitarian Coordinator in Khartoum, and to UNAMID for supporting and facilitating his mission to the country. He also thanks the donor community and civil society organizations for their important work in promoting and protecting human rights in the country.

5. The Independent Expert also wishes to thank the previous mandate holder, Prof. Mashood Baderin, for the invaluable exchanges held on the complexity of the human rights situation and the development of the mandate.

II. Methodology

6. The Independent Expert undertook one visit to the Sudan during the period under review, from 13 to 23 May 2015, and visited Khartoum as well as the States of Northern and Southern Darfur. The objective of the field visits and meetings in this early part of his work on the Sudan was to identify the technical assistance and capacity-building needs of the Sudan that will enable the State to fulfil its human rights obligations.

7. In Khartoum, the Independent Expert held wide-ranging discussions with senior government officials, including the Minister for Justice, the Assistant to the President of the Republic of the Sudan and the Director General of Global Issues of the Ministry of Foreign Affairs. He was apprised of the situation of human rights in the country by the Rapporteur ad interim and members of the Advisory Council for Human Rights, and was encouraged by their response to some of the issues he raised. He also met the Chairperson and members of the National Commission for Human Rights. He had frank and fruitful discussions with the Deputy Director of the National Security Service, and interacted with the Chief Justice and ranking members of the Judiciary, the Chairperson and members of the National Commission for Human Rights, the Chairperson and members of the National Elections Commission, the Director of the Humanitarian Aid Commission, the Chairperson and members of the Sudanese Bar Association, the Chairperson and members of the National Press Council, the National Council for Child Welfare, the National Mechanism for Family and Child Protection Unit and the National Demining Centre. The Independent Expert also

attended a forum on the impact of unilateral coercive measures on the enjoyment of human rights. He also met with representatives of civil society organizations, human rights defenders and victims of human rights violations, some of whom shared their personal experiences with him. He met with members of the diplomatic community, representatives of opposition political parties and staff members and students of the University of Khartoum, from whom he received valuable information on the human rights situation in the country.

8. In Northern Darfur, the Independent Expert met with a representative of the Darfur Regional Authority, the Governor of the State of Northern Darfur, the Special Prosecutor for Crimes in Darfur and officials of UNAMID and United Nations agencies in Northern Darfur. In Southern Darfur, he held a meeting with the Governor of Southern Darfur State and his team, as well as with officials of UNAMID. He also visited three camps for internally displaced persons, namely, the Abou Shouk camp in Northern Darfur and the Otash and Dereige camps in Southern Darfur, where he witnessed the deplorable living conditions of the residents.

9. During his visit, the Independent Expert reiterated the scope of his mandate to the Government and all relevant stakeholders. As explained by the previous mandate holder (see A/HRC/21/62), the Government of the Sudan continues to hold the position that since the mandate of the Independent Expert is no longer under the Human Rights Council agenda item 4 ("Human rights situation that requires the Council's attention") but rather under item 10 ("Technical assistance and capacity-building"), no reporting or monitoring on any element of human rights was required. For their part, other national and international stakeholders expressed the view that the mandate includes assessment of and reporting on the situation of human rights in the Sudan, essential to the formulation of realistic and workable technical advice for a gradual and effective improvement in that situation.

10. The Independent Expert confirms his understanding that the mandate does indeed come under agenda item 10, and that it includes the responsibility to assess and report on the situation of human rights in view of making sound recommendations on technical assistance and capacity-building. This was underscored by the Human Rights Council in its resolution 27/29, in which the Council renewed the mandate of the Independent Expert to continue "to assess, verify and report on the situation of human rights with the view to make recommendations on technical assistance and capacity-building for addressing human rights in the country." This mandate enables the Government of the Sudan to take ownership in supporting the implementation of the recommendations. It also enables the donor community to provide additional targeted financial support and the technical expertise needed to address the human rights challenges in the country.

11. The Independent Expert notes with satisfaction that the Government has endorsed his understanding and analysis of the scope of the mandate, which enabled his engagement with a wide range of stakeholders, including the donor community, leaders of the political opposition and others civil society actors. He also points out that the Government showed its willingness to continue to cooperate with the Human Rights Council in order to fulfil its human rights obligations. In all his meetings with the Government, the Independent Expert received assurances of cooperation with the mechanism he represents. Nonetheless, he remains concerned by assessment given by Sudan officials of the human rights situation in the country that appears not to take into account the deteriorating environment.

III. Recent developments

12. On 4 January 2015, Parliament approved amendments to the 2005 national interim Constitution, including additional powers for the President to appoint and remove senior officials, including State governors, as well as those holding other senior constitutional, judicial, military, police and security posts. The amendment to article 151 transformed the National Security Service from an intelligence agency focused on information gathering, analysis and advice to a full-fledged security agency with a broad mandate to exercise a number of functions usually carried out by the armed forces or other law enforcement agencies.

13. The Independent Expert notes that the increased mandate and powers of the National Security Service is already having a far-reaching, negative impact on the promotion and protection of human rights. Under the National Security Act, National Security Service agents have immunity from civil and criminal liability for acts conducted in "the course of their duty" or in "good faith". They are only subject to prosecution if the Director General of the National Security Service decides to lift this "immunity" or "prerogative".

14. With the recent development, there is a risk that the mandate of the National Security Service, cutting across intelligence, military and law enforcement spheres, could also undermine or unduly interfere with ordinary police work, thus creating confusion and causing further dysfunction in the criminal justice system.

15. On 22 February 2015, the President of the Sudan assented to a bill amending article 149 of the Sudanese Criminal Code. The amendment made a substantive and legal distinction between rape and adultery. The Independent Expert commends the Sudanese authorities for this legal reform, which constitutes a concrete step in the fight against impunity for violence against women in the Sudan. He expects that more cases of sexual violence, particularly rape, will be reported to authorities, and that rape victims will be encouraged to pursue legal redress given that they will no longer be accused of adultery.[1]

16. General elections were held at all levels of government (national, state and local) from 13 to 15 April, despite repeated calls from opposition forces and civil society groups for a postponement of the elections. The elections were extended by a day by the National Elections Commission, until 16 April. Three major opposition parties, including the Umma National Party, the Popular Congress Party and the Sudanese Communist Party, under the umbrella of the National Consensus Forces, as well as some civil society organizations boycotted the elections, claiming that the political and security environment was not conducive to the holding of free and fair elections. The elections were monitored by observers from the African Union, who reported a low turnout of voters throughout the country. In the final results released by the National Elections Commission, President Omar Al Bashir was declared winner in the national presidential ballot, winning 94 per cent of votes.

17. In the lead-up to and during the elections, human rights organizations and UNAMID recorded a number of human rights violations. On 6 and 7 December 2014, Dr. Amin Mekki Medani, a human rights activist, Farouk Abu Issa, the leader of the National Consensus Forces, and Farah Alagar, another political activist, were arrested by the National Security Service for having signed and supported the "Sudan Call", a political declaration calling for the restoration of democracy in the Sudan that had been signed by Sudanese opposition parties, rebel movements and civil society. Dr. Medani and Mr. Abu

[1] Prior to the amendment, legal provisions in the article allowed for prosecution of rape victims for adultery if rape was not proven.

Issa were detained incommunicado for 2 weeks and later charged in a terrorism court with having undermined the constitutional order and for waging war against the State, two crimes for which the death penalty may be applicable and bail was therefore not guaranteed. On 9 April 2015, their trial was suspended and they were released, together with Mr. Alagar.

18. On 12 April 2015, concerns were raised about the situation of Sandra Kodouda, a Sudanese activist, who was abducted by unidentified persons while on her way to a meeting at the headquarters of the National Umma Party to discuss the election boycott. The National Security Service denied that she had been detained before her release on 15 April. She subsequently issued a written apology, reportedly under duress, in which she denied any involvement of the National Security Service – after it filed defamation charges against her – in her temporary disappearance.

19. In Darfur, the authorities continued to impose restrictions on the rights to freedom of expression, association and peaceful assembly. In El Fasher, Northern Darfur, demonstrations organized by students at El Fasher University on 14 and 15 April 2015 were repressed by Sudanese police, who arrested and detained 20 students. The students were charged with offences relating to "assault on the constitutional order", one of which carried a maximum penalty of death. The latter was subsequently removed from the charge sheet and the students were granted bail on 22 April.

IV. Main human rights challenges

20. In spite of some progress made in legislative reforms, the Sudan continues to face enormous human rights challenges in terms of securing basic fundamental rights, in particular the rights to freedom of expression and opinion, freedom of the press, freedom of association and peaceful assembly, and freedom of religion. In addition, the recent military operations of the Government in the conflict-affected areas of Darfur, the States of Southern Kordofan and Blue Nile, as well as inter-tribal clashes, continue to result in serious human rights violations and the large-scale displacement of civilians in these regions. Impunity for human rights violations and abuses, and serious violations of international humanitarian law, remains a recurring problem. The enjoyment of economic, social and cultural rights also needs to be improved to address the severe poverty affecting particularly women and children.

21. The Independent Expert discussed these challenges in his meetings with government representatives and appreciates the Government's commitment to address them as part of its efforts towards improving the situation of human rights in the country.

A. Press censorship

22. There is a need to ensure the protection of freedom of the press in the Sudan; the Independent Expert notes in particular the application of national security laws to clamp down on the press, including through the closure of media houses, the arrest of journalists and the confiscation of newspapers and equipment by the National Security Service.

23. Since December 2014, there have been several clampdowns on press and media freedoms, including the censorship and temporary closure of several newspapers. During the period under review, at least 16 newspapers had their publications confiscated on 42 different occasions by the National Security Service. Several journalists reported interrogation and harassment by the police and of security service agents. On 16 February 2015, the print runs of 14 newspapers were confiscated. On 25 May, the editions of 10 newspapers were seized by security service officers. These actions contravene article 39 of

the interim national Constitution of the Sudan (2005), which guarantees "freedom of expression and the media".

24. The Independent Expert had raised this issue in his discussions with government officials as a legitimate concern to which the Government needed to pay attention, in view of the importance of freedom of expression and of the press in the promotion and protection of human rights in a democratic society.

B. Curtailment of activities of civil society organizations

25. During the period under review, the Government continued to clamp down on the activities of civil society organizations.

26. Four leading civil society organizations have been shut down, while at least five others are under threat of imminent closure. On 18 January 2015, the National Security Service raided the Mohmoud Mohamed Taha Cultural Centre. Later that month, the National Civic Forum and the Sudanese Writers Union were informed by letter that their licences would be revoked by the Ministry of Culture. On 26 March, security agents raided the Terakes Training and Human Development Centre in Khartoum while Adil Bakheit, a member of the Sudanese Human Rights Monitor, was conducting a human rights workshop. During the raid, Mr. Bakheit's computer and documents were confiscated. Three staff members of the Centre were interrogated in connection with the raid.

27. On 16 April 2015, Mr. Bakheit was arrested by the National Security Service while he was attending a workshop at the Tracks Training Centre in Khartoum. He was subsequently charged with criminal conspiracy, inciting opposition against public authority through the use of violence or criminal force, the publication of false news, offences against the State and impersonating a public servant. He was released on bail on 3 May.

28. The above-mentioned actions appear to be in contravention with the rights to freedom of peaceful association as set forth in the International Covenant on Civil and Political Rights and the principles of the Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms. They also contravene article 40 of the interim national Constitution of the Sudan, which guarantees the freedom of assembly and association.

29. The Independent Expert notes the important role played by human rights defenders in democratic societies, and stresses the need for the Government of the Sudan to allow them to carry out their activities in an open, safe and secure environment.

C. Freedom of religion

30. The right to freedom of religion is enshrined in article 18 of the International Covenant on Civil and Political Rights and in article 38 of the interim national Constitution of the Sudan. The interim national Constitution also established the Commission for the Rights of Non-Muslims in Khartoum State to ensure that their rights are protected in accordance with the Constitution. The Independent Expert, however, received information in relation to incidents of arrest and restrictions of freedom of religion or belief of the Christian communities. On 14 December 2014, Reverend Yat Michael Ruot Puk, a pastor from the Southern Sudan Evangelical Church, was arrested by National Security Service officers. On 11 January 2015, Reverend Peter Yein Reith was arrested at his residence. Both clergymen were arrested without any arrest warrant and were held incommunicado until 1 March 2015. On 4 May, they were brought before a court, where they were both

charged with undermining the constitutional system, waging war against the State, espionage, unlawful disclosure and receipt of official information or documents, arousing feelings of discontent among regular forces, breach of public peace and offences relating to insulting religious beliefs. Following these charges and subsequent hearings on 19 and 31 May, both pastors were allegedly moved to a high security prison in North Khartoum. They were last seen by their families and pastors from their church on 3 June.

31. The Independent Expert is concerned about the arrest, detention and possible trial of the two people, which would be in contravention of articles 18, 19 and 20 of the Universal Declaration of Human Rights and articles 18, 19, 21, 26 and 27 of the International Covenant on Civil and Political Rights that stress the rights to freedom of religion, freedom of opinion and expression, freedom of peaceful assembly and of minorities. He calls upon the Government of Sudan to respect the fundamental freedoms enshrined in the interim national Constitution and to allow the Sudanese people to exercise their rights freely.

D. Human rights violations committed during the demonstrations of September 2013

32. The Independent Expert also met with representatives of some of the family members of deceased victims of the oil-subsidy demonstrations held in September 2013 across Khartoum State, which resulted in fatal shootings, injuries and the destruction of property, as well as the arrest and detention of many demonstrators. The "brief report on the acts of violence of September 2013", prepared and issued by the Office of the Chief Prosecutor of Khartoum State, was discussed at length by the previous mandate holder in his last report (A/HRC/27/69). The family members and their lawyers affirmed that they had all lost hope in their quest for justice for their deceased relatives, and felt threatened.

33. The Independent Expert calls upon the Government to ensure that an independent judicial inquiry is conducted into the killings and various other human rights violations, to address arbitrary violations of the fundamental right to life, and impunity.

E. Conflict-affected areas

34. Armed conflicts and lack of security continue to be major sources of human rights violations in different parts of the Sudan. In particular, Darfur and the States of Southern Kordofan and Blue Nile continue to experience sporadic cycles of armed conflicts, violent attacks and banditry, which have had a negative impact on civilians during the reporting period.

1. Darfur

35. As the conflict in Darfur, which broke out in February 2003, enters its twelfth year, the situation of human rights continues to be a major concern. While the signing of the Doha Document for Peace in Darfur by the Government and the Liberation and Justice Movement was a sign of political progress, the persistence of fighting between the Sudanese Armed Forces and non-signatory armed opposition groups has been compounded by clashes between various tribes (the latest reported being between the Rezeigat and the Maalia in East Darfur) that highlight the vulnerability of civilians in the region. Indiscriminate attacks against civilians, tribal clashes and heightened criminality continued unabated, at the most met by a feeble response from law enforcement officials and security institutions, leading to the loss of lives, civilian injuries and the destruction of civilian property.

36. According to UNAMID, patterns and incidents of violations of human rights and international humanitarian law deteriorated following the deployment to Darfur of the Rapid Support Forces in 2014, which was part of Operation Decisive Summer During the campaign, UNAMID documented cases in which the Rapid Support Forces launched attacks, including on civilians suspected of being sympathetic to armed opposition movements in both Northern and Southern Darfur States. The attacks involved multiple human rights violations and serious violations of international humanitarian law, including the indiscriminate killing of civilians, the destruction of civilian property and objects, and considerable displacement of civilians. UNAMID also obtained accounts from victims and witnesses that pointed to a pattern in the burning of villages, the looting of civilian property, including livestock, and the destruction of sources of livelihood necessary for civilian survival.

37. Although large-scale fighting between the Government and armed groups have subsided,[2] sporadic clashes, acts of banditry, intercommunal violence and restrictions to freedom of movement and political liberties persist throughout Darfur and continue to pose challenges to a participatory and comprehensive political dialogue. In particular, tribal clashes stemming from resource-related disputes, including land, are becoming a major source of insecurity as they increasingly involve well-armed individuals who have pledged their allegiance, sometimes on tribal lines, to either armed groups or the Government of the Sudan and its forces, namely, the Rapid Support Forces, the Border Guards and the Central Reserve Police.

38. The lack of substantive progress in achieving a durable peace coupled with the emergence and shifting loyalties of armed groups have continued to fuel the conflict, during which serious violations of human rights and international humanitarian law are perpetrated by all parties to the conflict.

(a) Situation of internally displaced persons

39. According to the Office for the Coordination of Humanitarian Affairs, the conflict in Darfur has led to the internal displacement of some 2.5 million people, most of whom depend on support for basic services and on aid from humanitarian agencies. The Independent Expert visited the Abou Shouk, Otash and Dereige camps for displaced persons in Northern and Southern Darfur States. He is concerned not only at the ongoing displacement of residents and the attendant humanitarian crisis, but also for the future of displaced persons in general.

40. In Nyala, the representatives of internally displaced persons informed the Independent Expert that the newly displaced were not receiving any aid, in particular food or medical assistance, owing to the limited stocks of humanitarian aid. The Independent Expert therefore calls upon the Government of the Sudan and the international community to provide humanitarian assistance to displaced persons, who live in very precarious conditions, and thereby help to realize their economic, social and cultural rights. These people live in a state of insecurity owing to the presence of various armed elements and to crimes that are commonplace in the region. The Independent expert also calls upon the Government and UNAMID to fulfil their obligation to create a safe and secure environment for these displaced communities, and to ensure that, once created, these environments remain secure.

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[2] Operation Decisive Summer 1 in 2014 and Operation Decisive Summer 2 in 2015 were the most prominent clashes to be reported for their impact on the displacements of civilians.

41. Occupation of lands by armed groups, insecurity and absence of basic infrastructure were some of the key reasons mentioned by displaced persons preventing them from returning to their homeland. Most of these persons, however, expressed their willingness to return if the security situation were to improve. The Independent Expert urges the Government of the Sudan to create the necessary conditions for the return of internally displaced persons to their places of origin and the international community to support this process.

42. The Independent Expert strongly urges all parties to the conflict to respect international human rights and international humanitarian law and to ensure humanitarian access at all times and to protect civilians.

(b) Sexual and gender-based violence

43. The Independent Expert is particularly concerned about the prevalence of sexual and gender-based violence throughout Darfur. This violence against women and girls includes acts of rape and sodomy, gang rape, attempted rape and harmful traditional practices, as well as domestic violence. From January to April 2015, UNAMID documented 27 incidents involving 39 victims of sexual and gender-based violence. UNAMID, through its follow-up with local sources, also established that cases of sexual violence were largely underreported. Most victims of sexual violence are displaced women and girls attacked while engaged in livelihood activities outside their camp. In some cases, victims are attacked while in the supposed safety of their shelters inside the camp or while fleeing for safety during attacks on their villages. The pattern that has emerged from these attacks suggests that, in most cases, perpetrators cannot be identified; in other cases, attacks were allegedly perpetrated by government security forces, signatory and non-signatory armed factions and sometimes by individuals not part of any organized group or government entity.

44. The general failure and sometimes reluctance of law enforcement officials to register or investigate sexual violence offences appropriately continues to impede victims' access to justice. In some cases of sexual and gender-based violence, victims cite their lack of trust in the local authorities to take appropriate action as the reason for not reporting attacks. Although some cases reported to the local authorities have led to a prosecution, the vast majority of perpetrators go unpunished, while others seek an out-of-court settlement. In addition, the requirement that victims of sexual and gender-based violence fill in "form 8" – a document used by the police to obtain a forensic opinion regarding a crime from an authorized government expert – continues to pose a challenge to victims in their access to justice, despite the fact that, in 2004, the Federal Ministry of Justice issued a circular that exempted victims of sexual and gender-based violence from this procedure. A decade later, some victims of sexual and gender-based violence are still required to complete form 8 before they can have any access to medical assistance or criminal justice services.

45. The difficulties encountered by UNAMID in gaining access to information, sites and victims of alleged human rights violations and abuses continued to impede the reporting of cases of sexual and gender-based violence. The Independent Expert nonetheless noted that some steps were being taken by the Government of the Sudan to respond to violence against women, including the legal reform of the controversial article 149 of the Sudanese Criminal Code (see para. 15 above), which now dissociates the definition of rape from adultery, as well as establishing of bodies that address of gender-based violence at the local level, to address violence against women in the Darfur States. While these steps are welcomed, concrete measures to prevent and address sexual and gender-based violence and other forms of violence against women should be developed at the earliest opportunity.

(c) Economic, social and cultural rights

46. In Darfur, widespread poverty, compounded by poor infrastructure and health and social services, as well as environmental hazards, has been further exacerbated by the ongoing armed conflict, which has adversely affected the conditions necessary for the enjoyment of such basic rights as the rights to food, housing, health, water, sanitation and education by the civilian population.

47. Poverty levels in Darfur are among the highest in the country; almost two thirds of the population live below the poverty line. Land occupation and land use issues are a recurring issue in all parts of Darfur. In particular, issues of access to land often trigger intercommunal conflict in the region. While the entire population of Darfur has been affected by the crisis, women, by virtue of their social and legal status and as a result of traditional norms and customs, face increased discrimination, which has a negative impact on their enjoyment of economic, social and cultural rights.

48. The Government does not appear to have records, information and reliable statistics that would enable it assess the progressive implementation of its obligations under the International Covenant on Economic Social and Cultural Rights, which the State has ratified.

2. Southern Kordofan and Blue Nile

49. During the period under review, several reports were received of human rights violations in the States of Southern Kordofan and Blue Nile. The violations included systematic attacks against civilians by both government forces and armed opposition groups and bombing in areas populated by civilians in the Nuba Mountains – acts contrary to the international humanitarian principles of distinction and proportionality. According to information received by the Independent Expert, between January and April 2015, the Sudanese Air Force dropped approximately 374 bombs in 60 locations in Southern Kordofan. The aerial bombardments and ground shelling resulted in the deaths of an estimated 35 civilians and injured a further 70 individuals, and damaged civilian objects, including villages, schools and mills.

50. Reports indicate that a hospital run by Medecins sans Frontières in Southern Kordofan was bombed, in violation of international humanitarian law, on 20 January 2015, forcing the suspension of all medical activities. The organization decided on 29 January 2015 to shut down its operations in the Sudan owing to the restrictions on its activities. The Independent Expert also received information on a surge in fighting on the ground between government forces and the Sudan People's Liberation Movement-North (SPLM-N), in particular following the elections. The fighting caused the displacement of approximately 50,000 people in the States of Southern Kordofan and Blue Nile in May 2015.

51. Violations of human rights and international humanitarian law were also perpetrated by armed movements. On 12 March 2015, a attack by SPLM-N on Kalogi in Southern Kordofan reportedly resulted in 40 civilian deaths, 45 injuries and the displacement of 25,000 people. On 25 June, another attack by SPLM-N in Southern Kordofan is said to have led to the death of a dozen civilians and the wounding of approximately 100 others.

52. The Independent Expert remains deeply concerned at the situation in the States of Southern Kordofan and Blue Nile, and reiterates his willingness to visit these regions during his next visit to the Sudan with a view to assessing the ongoing situation.

V. Assessment of the situation of human rights

53. Despite some progress made in the legislative reform, some remaining challenges severely impede any significant improvement in the overall situation of human rights in the Sudan. Most of the recommendations made by the previous mandate holder remained largely unimplemented during the period under review. In addition, the African Commission on Human and Peoples' Rights recently published a ruling of March 2014 in which it found the Sudan responsible for violating the rights of three Sudanese nationals by, inter alia, illegal incarceration and torture. The Commission has requested the Government to compensate the victims.

54. The ongoing violence in Darfur and in the States of Southern Kordofan and Blue Nile has been marked by widespread impunity. Perpetrators of human rights violations and abuses and violations of international humanitarian law, including government security forces and affiliated-militia and armed opposition movements, have rarely been held to account for their actions. The judicial response to these violations and abuses continues to be weak. In particular, the Independent Expert stresses that combating impunity should be a foremost priority of the Government of the Sudan that should include ensuring effective, efficient access to justice for victims of human rights violations and abuses.

55. There have been restrictions on political rights and fundamental freedoms, including the freedom of expression, freedom of the press, the freedom of association and peaceful assembly, forced disappearances, sexual and gender-based violence, arbitrary arrests and detentions, torture and degrading treatment perpetuated by security forces and armed movements against the civilian populations as well as denial of humanitarian access to conflict-affected areas. The Independent Expert calls upon the Government of the Sudan to facilitate access to the affected population for delivery of humanitarian assistance.

56. The Independent Expert continued to receive reports of prolonged detention of persons without access to legal representation or to their families. He calls upon the Government of the Sudan to respect the political and civil rights and fundamental freedoms enshrined in the interim national Constitution and to allow the Sudanese people to exercise their rights freely. He also calls upon the Government to release all detained persons or to charge and prosecute them in accordance with the law.

57. The Independent Expert is concerned that the death penalty continues to be applied, and that lashing is used as a routine penalty, in contravention of international human rights law. Moreover, the use of torture is a clear contravention of international law and article 33 of the interim national Constitution.

58. The Independent Expert notes that all his governmental interlocutors raised the issue of unilateral coercive sanctions against the Sudan, qualifying them as a serious violation of basic human rights because of their negative impact on the situation of human rights. During the visit of the Independent Expert, the Government organized a forum on the negative impact of unilateral coercive measures on the enjoyment of human rights. The Government underscored the negative impact of these measures on the Sudanese people, in particular on women and children. It also advocated for the lifting of sanctions by the international community, seeking instead an international engagement to a broad programme of technical assistance for the Sudan.

59. The Independent Expert raised the matter with the newly appointed Special Rapporteur on the negative impact of the unilateral coercive measures on the enjoyment of human rights, Idriss Jazairy, for appropriate follow-up.

VI. Technical assistance and capacity-building

60. The establishment of the National Commission for Human Rights, the Advisory Council for Human Rights and other governmental human rights bodies, such as the Human Rights Committee of the National Assembly, the Unit to Combat Violence against Women and Children, the National Council for Child Welfare, the Family and Child Protection Unit of the police force, the Darfur Regional Authority, the Special Court for Darfur Crimes and others ministerial units or commissions is a sign of institutional progress in the field of human rights in the Sudan. The Independent Expert takes notes their establishment with satisfaction, and encourages the Government to provide further support for their independence and financial autonomy, in particular of the National Commission for Human Rights.

61. Despite the fact that administrative control over some of the above-mentioned bodies and mechanisms could appear to be excessive, it remains necessary to continue to strengthen and work with them. Local civil society organizations also have their role to play, and need to be strengthened as well so as to make meaningful progress in the improvement of human rights in the Sudan.

62. There is, to a large extent, some level of consensus among stakeholders of the need for capacity-building in the form of relevant human rights training for members of these mechanisms, as well as of the judiciary, the police, the National Security Service and non-governmental human rights organizations. The need for public awareness and human rights empowerment initiatives were also identified. Technical assistance and capacity-building initiatives are, however, capital-intensive and require high levels of funding, which must be sourced both internally from the Government itself and externally from different cooperating partners within the donor community and institutions.

63. In his meetings with UNAMID, United Nations agencies and members of the diplomatic corps, the Independent Expert was informed of a number of ongoing support and technical assistance programmes for the Sudan in the field of human rights. He urges other donor countries and the international community to provide the necessary technical and financial support to the Sudan in the field of human rights.

64. During the period under review, international partners, in particular UNAMID, the United Nations Development Programme and the United Nations Children's Fund, provided various forms of technical assistance and capacity-building to government institutions and civil society, as a contribution to improving the human rights situation in the country. Mention should also be made of the training of national partners on child rights and child protection, and of the training of prosecutors, including the Special Prosecutor for Crimes in Darfur, the training of 400 community police volunteers and English lessons for more than 3,000 internally displaced persons.

65. Furthermore, the Independent Expert was also pleased to observe the support provided by international partners, including the United Nations country team and UNAMID, to the Ministry of Justice to help to implement the universal periodic review recommendations, in particular those related to the rights of women and children, and the technical assistance given to the Advisory Council for Human Rights in relation to the preparation of the national report for the second cycle of the universal period review. Technical assistance has also been provided to the National Commission for Human Rights, in particular in the preparation of its strategic plan and the establishment of its branch in Darfur. He welcomes the efforts being made by UNAMID and the United Nations country team to strengthen the capacity of civil society, including all efforts aimed at building rule of law institutions through legislative reforms and legal aid.

66. It is essential for the donor community to continue its financial and technical support for the Government of the Sudan and civil society to ensure capacity-building on human rights.

67. The Independent Expert has identified, as an important capacity-building concern for the Sudan, the need for human rights education, and more specifically of human rights litigation training, and for broader empowerment of civil society. In addition, he endorses the recommendations made by the previous mandate holder concerning the need for a programme of technical cooperation in the field of human rights with the National Commission for Human Rights.

VII. Conclusion and recommendations

68. **Despite the willingness of the Government of the Sudan to continue to engage with the international community and to discuss the situation of human rights in a positive manner, the situation in the Sudan remains a source of serious concern. The way to improve the situation has been outlined in a number of previous reports, and the recommendations made therein remain to be considered seriously.**

69. **The Independent Expert underscores the centrality of human rights and of the rule of law to peace and stability in the Sudan, and calls upon the Government of the Sudan to continue its efforts to address the conflict in Darfur as part of a holistic approach to the challenges of peace, governance and democracy in the Sudan.[1] He believes that the national dialogue initiative announced by the Government in January 2014 offers an opportunity to advance democratic reforms, peace, reconciliation and power-sharing in the Sudan.**

70. **Other challenges include combating impunity and ensuring humanitarian access to areas affected by conflicts. In this regard, the Independent Experts calls upon the Government of the Sudan to renew its efforts in these areas to fulfil its human rights obligations.**

71. **The Independent Expert calls upon the Government of the Sudan to acknowledge the persistence of human rights violations and abuses in the country, and to allow effective access by the Independent Expert and other human rights mandate holders to visit all areas of the country, and to meet with relevant stakeholders with a view to addressing the human rights concerns and humanitarian challenges facing the Sudan.**

72. **The Independent Expert notes with satisfaction the renewal by the Security Council of the mandate of UNAMID, and encourages donor States and international institutions to continue to provide it with the much-needed support with a view to enhancing its capacity to discharge more effectively its mandate and to alleviate the humanitarian crisis in Darfur (see S/2015/378). The Independent Expert remains particularly concerned at all hostile actions and attacks against UNAMID personnel and assets, and against humanitarian organizations and their staff. He calls upon the Sudan to arrest and prosecute all perpetrators of these acts, in accordance with the principles of equitable and fair judicial process.**

73. **In addition to the recommendations made by the previous mandate holder, the Independent Expert makes the recommendations below.**

[1] See African Union, Peace and Security Council communique PSC/PR/COMM.(DXVI), 22 June 2015.

A. Government of the Sudan

74. The Independent Expert calls upon the Government of the Sudan:

(a) To acknowledge the persistence of human rights violations and abuses in the country;

(b) To continue and deepen its efforts to combat impunity by prosecuting all perpetrators of human rights violations and abuses and violations of international humanitarian law in the country;

(c) To prevent interference by security forces in the activities of civil society and to provide the National Commission for Human Rights with the human and financial resources necessary to fulfil its mandate, to ensure its independence in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), and to continue to facilitate the establishment of its branch offices beyond Khartoum and Darfur;

(d) To conduct an inclusive and transparent national dialogue, as initiated by the Government in January 2014, and to ensure the participation of all stakeholders, including regional observers, with a view to advancing peace and reconciliation in the country;

(e) As the national dialogue evolves, to explore the organization of a donors conference to support concrete proposals for technical cooperation and capacity-building in the area of human rights in the Sudan;

(f) To implement the recommendations of the previous mandate holder without further delay, including:

(i) To institute an independent judicial public enquiry into the killings of civilians and other human rights violations during the demonstrations of September 2013;

(ii) To ensure that its security agents desist from arbitrary arrest and detention, press censorship, clamping down on civil society organizations, and to respect fully the right to liberty and freedom of individuals;

(iii) To put an end to indiscriminate aerial strikes and to respect the principle of proportionality in its armed response to attacks by armed movements;

(iv) To respond formally to communications received under the special procedures system in a timely manner;

(g) To call a moratorium on the use of the death penalty and to review routine recourse to lashing, and to ensure that the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment is upheld;

(h) To ensure that all discrimination against and assaults on the human dignity of the Darfuri on the basis of ethnic and tribal affiliation cease;

(i) To challenge the culture of silence and denial surrounding sexual and gender-based violence;

(j) To review article 152 of the Sudanese Criminal Code (1991) on "indecent dress", to ensure that the offence of modesty and the penalty of flogging do not perpetuate violence against women, and to ensure equality in the enjoyment of civil and political rights;

(k) To provide full cooperation to UNAMID, to ensure that all hostile actions and attacks against it cease, and to ensure that it may continue to promote and protect human rights and support the peace process in Darfur;

(l) To ensure that humanitarian access is available and assistance is provided to internally displaced persons, and that their economic, social and cultural rights are respected.

B. International community

75. The Independent Expert calls upon the international community:

(a) To enhance its technical cooperation with and assistance to the Government of the Sudan, and to take concrete actions towards implementing the recommendations made by the previous mandate holder;

(b) To pursue efforts to support national dialogue and to facilitate the pursuit of peace, security, stability and reconciliation in the Sudan;

(c) To continue to support the programme of technical cooperation in the field of human rights with the Advisory Council for Human Rights, and also to develop a programme of technical cooperation for the National Commission for Human Rights;

(d) To continue to work closely with civil society stakeholders and to take into consideration their needs for technical assistance and empowerment in the field of human rights education, in particular litigation;

(e) To continue to support the continued presence of UNAMID in Darfur by providing it with the resources necessary for the protection of the civilian population and its basic rights;

(f) To ensure that internally displaced persons are provided with humanitarian assistance, and that their economic, social and cultural rights are respected.

C. Civil society organizations in the Sudan

76. The Independent Expert encourages civil society organizations in the Sudan to seek opportunities to enhance their human rights education, and in particular, their training in human rights litigation. He invites civil society organizations, while continuing their pivotal work in the promotion and protection of human rights, to develop concrete proposals to fund technical assistance and capacity-building, and submit them to international and regional actors.

D. Opposition armed movements

77. Given that the Independent Expert was not able to meet representatives of opposition armed movements in the Sudan during his first visit, he prefers to make his recommendations at a later date. The Independent Expert, however, calls upon the armed movements in the Sudan to take concrete action towards implementing the recommendations made by previous mandate holders, in particular with regard to the respect of human rights and international humanitarian law.